

REMARKS

In response to the above Office Action, claims 1-4, 8 and 9 have been cancelled and replaced by new claims 10-15, respectively, to more clearly claim applicants' invention.

Claim 10 now recites that the food dough extending apparatus has "a box-shaped cover mounted to and located above the lower frame that has an opening in a bottom thereof" and that the "cluster of the plurality of extending rollers" is mounted in and to the box-shaped cover". It also recites means for moving the box-shaped cover with the cluster of rollers located therein in an up and down direction and toward and away from the lower frame and the food-covering member.

Support for claim 10 can be found on page 5, lines 13-14 and in FIGS. 1 and 3. As can be seen from this description in combination with the drawings, element 5 is a box-shaped cover having an open bottom in which and to the cluster of extending rollers are mounted while permitting them to cooperate with the food-conveying member to extend food dough. As discussed in previous replies and as clearly set forth in the specification and in FIG. 3, the purpose of the claimed means for moving the box-shaped cover with the cluster of rollers mounted to and located therein toward and away from the food-conveying member of the lower-frame is to permit ready access to the interior space for cleaning both the rollers and the member. This would not be possible with the box-shaped cover in the way as shown, for example, in the position it is in FIG. 1.

In the Office Action, the Examiner rejected claim 1 (now claim 10) under 35 U.S.C. §103(a) for being obvious over Hayashi '375 in view of Cimenti. Claims 2-4,

8 and 9 (now claims 11-15) were rejected for being obvious over Hayashi '375 in view of Cimenti and further in view of Hayashi '071 and Morikawa '218.

As pointed out by the Examiner, Hayashi '375 discloses means (41) for moving the frame (39) on which is mounted a cluster of extending rollers (33) in an up and down direction and toward and away from a lower food extending member (9,19), but the upper frame does not have "a box-shaped cover therefor that has an opening in a bottom thereof" and in which the cluster of rollers is mounted and located. As is clearly seen in FIG. 2 of Hayashi '375, the cluster of rollers is not mounted to or located in a "box-shaped cover," but lies exposed above the lower food conveying member.

Cimenti shows in a food dough machine, a cover 1 in which a plurality of rollers 32-37 are located that cooperate with a food conveyor 40.

The Examiner therefore believes it would be obvious to provide a cover for the cluster of upper rollers 23 of Hayashi '375 in view of Cimenti.

However, it must be appreciated that even if, for the sake of argument, it was obvious to provide the apparatus of Hayashi '375 with a box-shaped cover over the rollers (33) in view of Cimenti, this still does not mean that the box-shaped cover would be moved by the means (41) for moving the rollers (33). This presupposes that the cluster of the plurality of extending rollers (33) of Hayashi '375 would not only be located in, but also mounted to the box-shaped cover of Cimenti.

There is nothing in Cimenti that would suggest this configuration. In Cimenti, the rollers may be located inside the cover (1), but as far as it can be determined, the rollers are not mounted "to" the cover. See for example, FIG. 6 of Cimenti. Moreover, as taught in column 2, lines 18-21, the housing (1), which is what covers the rollers, has a "removable cover 11 which can be removed to permit access to the internal

components of the ... apparatus.” This suggests the housing is fixed relative to the support structure S.

Accordingly, the proper combination of Hayashi '375 and Cimenti would be to provide a cover over the rollers (33) of Hayashi that is fixed relative to the apparatus's supporting structure and within which the rollers (33) are located and capable of being moved up and down by the means (41).

On the other hand, in applicant's claimed apparatus, the cluster of rollers are “mounted in and to the box-shaped cover” and means are provided “for moving the box-shaped cover . . . in an up and down direction and toward and away from the lower frame ... so that the ... cluster of the plurality of extending rollers therein can be moved upwardly and away from the food-conveying member.” This is not possible with the proper combination of Hayashi '375 and Cimenti. Any suggestion to mount the cluster of rollers (33) of Hayashi '375 to the cover and make the cover moveable with respect to its lower frame and lower food conveyors (9, 19), comes from a reading of applicant's specification, because the rollers of Cimenti are not mounted to cover (1) of Cimenti and the cover is fixed in place. Consequently, any cover for Hayashi would have to be fixed in place, while permitting the rollers (33) to be moved up and down within such cover. In other words, it would look like the configuration of FIG. 1(A) of Hayashi '017. This, of course, would not achieve the objective sought in the present invention, as noted above, of permitting ready access to the interior space of the apparatus for cleaning.

As noted in M.P.E.P. §2143, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.

Also, as the court noted, in Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 5 U.S.P.Q. 2d 1434 (Fed. Cir. 1988)

Something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. [837 F.2d at 1051, 5 U.S.P.Q. 2d at 1438, citing Lindemann, 730 F.2d 1452, 1462, 221 U.S.P.Q. 481, 488 (Fed. Cir. 1984).

There is no desirability suggested in Cimenti to mount the rollers to the housing (1) and make it moveable relative to the support structure S. Otherwise, why is removable cover 11 provided? Consequently there cannot be said to be any suggestion to mount the rollers (33) of Hayashi '375 in and to a cover and to make the cover moveable with respect to the lower frame and conveyors (9, 19) in view of Cimenti.

Withdrawal of the rejection of the claims for being obvious over Hayashi '375 in view of Cimenti is therefore requested.

Regarding claims 11-13, the subject matter of these claims may, per se, be considered obvious over the cited references, but since all of these claims depend directly or indirectly from claim 10, it is submitted they are patentable for the same reasons claim 10 is patentable over Hayashi '375 in view of Cimenti.

Regarding claims 14 and 15, it is submitted these claims are not obvious over Hayashi '375 as argued by the Examiner on page 4, lines 3-7, with respect to similar claims 8 and 9, because even if there was a cover over the rollers, the cover is not being pivoted by the movement of worm and gear (57, 59), only the rollers (33). Accordingly, it is submitted that these claims are patentable over Hayashi '375 in view of Cimenti, not only because they depend directly or indirectly from claim 10, but also because they include additional limitations not taught by the combination.

A Request for Continued Examination is being filed with this Reply to enable the Examiner to consider new claims 10-15.

It is believed claims 10-15 are in condition for allowance.

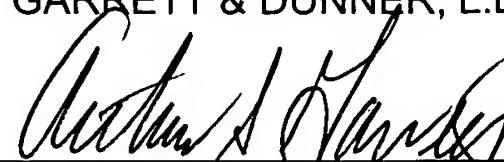
Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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By: _____



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